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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/740,263	12/18/2003	Matthias Boldt	84-03	1909

37158 7590 12/22/2005  
JOSEPH E. CHOVANES  
SUITE 329  
5 GREAT VALLEY PARKWAY  
MALVERN, PA 19355

EXAMINER

PRICE, ELVIS O

ART UNIT	PAPER NUMBER
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1621

DATE MAILED: 12/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/740,263	BOLDT, MATTHIAS	
	<b>Examiner</b>	<b>Art Unit</b>	
	Elvis O. Price	1621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 14 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>7/14/05</u> . | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

1. Claims 1-13 are pending in the application.
2. Applicants' arguments, filed 3/14/05, were found convincing to overcome the USC 102(b) and 103(a) rejections issued in the Office action dated 9/13/04. However, a new rejection has been issued for the claims.

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Negrison et al. {US Pat. 5,973,199}, in view of Llewellyn {US PG pub. 2004/0077902 A1}.

Negrison et al. Teach carboxylic acid salts of creatine such as creatine citrate, creatine maleate, creatine fumarate, creatine malate and creatine tartrate (see Col. 1, lines 1-15 and claim 1). Negrison et al. Prepare the creatine salts by reacting creatine monohydrated with the corresponding di- or tri-carboxylic acid (see col. 1, lines 50-55 and Examples 1 and 2). The difference between what is presently claimed and what is taught by the Negrison et al. reference is that the Negrison et al. reference is silent with regard to the number of creatine cations per carboxylic acid dianion.

However, Llewellyn teaches that dicreatine salt is generated from a two-to-one molar ratio of creatine to the dicarboxylic acid (see section 0006).

Thus, it would have been obvious to one having ordinary skill in the art to arrive at the presently claimed invention because Negrison et al. and Llewellyn teach creatine salts comprised of creatine and dicarboxylic acids as well a method for generating the creatine salts.

One having ordinary skill in the art would have been motivated to combine the teachings of the Negrison et al. and Llewellyn references, so as to arrive at other art recognizable methods of generating creatine salts, wherein they are two creatine cations to an anion of a dicarboxylic acid. The instantly claimed invention(s) would have been therefore obvious to one having ordinary skill in the art.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elvis O. Price whose telephone number is 571 272-0644. The examiner can normally be reached on 8:30am to 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Johann R. Richter can be reached on 571 272-0646. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Elvis O. Price', with a stylized flourish at the end.

Elvis O. Price